

## NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

### NOTICE OF FINAL RULEMAKING

#### TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

#### CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

*Editor's Note: The following Notice of Final Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 at 15 A.A.R. 1942, November 20, 2009.) The Governor's Office authorized the notice to proceed through the rulemaking process on April 30, 2010.*

[R10-183]

#### PREAMBLE

**1. Sections Affected**

R19-3-701  
R19-3-702  
R19-3-705  
R19-3-706  
R19-3-707  
R19-3-708  
R19-3-709

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 5-504(B)

Implementing statutes: A.R.S. §§ 5-504(C), (I) and (M)(1), 5-505(A) and (A)(4), 5-525

**3. The effective date of the rules:**

December 28, 2010

The Lottery requests an immediate effective date. Under A.R.S. § 41-1032(A)(4), an agency may request an immediate effective date when the rulemaking will provide a benefit to the public and a penalty is not associated with a violation of the rule. The Lottery believes that charitable organizations and the activities they support will benefit from the ability to offer instant tab games at the earliest date possible.

**4. A list of all previous notices appearing in the *Register* addressing the final rules:**

Notice of Rulemaking Docket Opening: 16 A.A.R. 879, May 28, 2010

Notice of Proposed Rulemaking: 16 A.A.R. 1324, July 23, 2010

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Jeff Hatch-Miller, Executive Director

Address: Arizona State Lottery  
4740 E. University Drive  
Phoenix, AZ 85034

Telephone: (480) 921-4505

Fax: (480) 921-4488

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or

Name: Pam DiNunzio

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**6. An explanation of the rules, including the agency's reason for initiating the rules:**

Article 7, Design and Operation of Instant Games, provides for the conduct of the Arizona Lottery's instant games. The rules explain the common components of instant games such as: game profiles, game playstyles, determination of a winning ticket, procedures required to claim prizes and the claim period, ticket validation requirements, and disputes concerning a ticket. These rules are being amended to add provisions for another instant game offering called instant tab tickets in accordance with Laws 2010, Ch. 126. The rulemaking also amends outdated terminology and makes conforming technical changes for greater clarity.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

The rules for Article 7, Design and Operation of Instant Games, describe various provisions for the Lottery's instant game products. There is no specific conduct this rulemaking is designed to change. These rules are intended to clarify instant game provisions due to a new Lottery game offering.

Laws 2010, Ch. 126 requires the Lottery to establish an additional special instant ticket game for use by charitable organizations. The Lottery will now offer "instant tab games" as part of the instant ticket product line. This rulemaking now includes requirements for both "instant scratch games" and "instant tab games." Instant tab games are essentially the same as conventional scratch ticket games, except the protective covering is a perforated tab instead of a latex covering. Winning instant tab tickets must be manually verified, similar to the method used to verify scratch tickets before the Lottery automated the validation process. Instant tab tickets are available in a variety of price points, but the Lottery will likely provide games in the \$.25-\$1.00 range, with top prizes ranging from approximately \$25-\$500.

The Lottery anticipates amendments to this Article will primarily impact the agency and certain Lottery retailers. The rulemaking also makes conforming and technical changes that are neutral with respect to economic impact.

**Arizona State Lottery.** Costs to the Lottery related to this rulemaking include expenses to print and distribute instant game tickets, in addition to administrative costs associated with contract monitoring and game development. These items are included within the agency's appropriated budget and will be covered from product revenues. The Lottery does not anticipate any added costs as a result of this rulemaking.

Laws 2010, Ch. 126, authorizes charitable organizations to sell instant tab games and the Lottery has been designated as the provider of tab tickets to these organizations. These games will be branded as Arizona Lottery products; Lottery retailers will be authorized to sell only games provided by the Lottery. In this rulemaking, the Lottery adds new provisions for instant tab games. The rule amendments will allow the Lottery to introduce this instant game product in a timely manner, thereby providing licensed charitable organizations with the potential to increase revenue.

**Full-Time Employees.** The Lottery does not anticipate the need for any additional full-time employees to implement the proposed rules.

**Businesses Directly Affected by this Rulemaking.** Lottery retailers are the only businesses impacted by the rules. Qualified charitable organizations may become licensed Lottery retailers; this rulemaking is expected to benefit these organizations while having little or no impact on traditional Lottery retailers.

The instant tab game product line provides charitable organizations with the opportunity to generate revenue for their various causes. Preliminary estimates indicate the Lottery can expect to add 300-500 charitable organizations as retailers, with the potential to generate up to \$12 million in overall sales annually. Charitable organizations will earn 20% on each tab ticket transaction as compared to the regular retailer commission rate of 6.5%. This special rate is available only to qualifying charitable organizations, and applies only to the instant tab product. Under traditional instant scratch games, the Lottery distributes funds to beneficiaries designated by the Legislature to receive the funds. Under charitable instant tab games, the charitable group makes a contribution to its charities from the 20% commission. The higher commission rate will not increase expenditures to the Lottery since this cost is factored into the game structure and will be paid from game proceeds.

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These rules are not expected to impact sales potential for traditional Lottery retailers. Conventional retail locations (i.e. grocery chains, convenience stores) are completely different retail environments that are not in direct competition with charitable organizations. Traditional retailers offer the instant scratch product and earn a 6.5% commission on those sales. Traditional retailers are also eligible to receive up to an additional .5% commission for meeting performance criteria, while charitable organizations selling only instant tab games will not be entitled to this incentive. In FY10, the Lottery's 2600 retailers earned almost \$37 million in total commissions, with an overall compensation rate of 6.7%.

**Small Businesses.** Lottery retailers are the only small businesses affected by these rules and the anticipated impact is the same. The ability for charitable organizations to sell instant tab games will have a neutral impact on traditional retailers, including small retailers. Charitable organizations will benefit from a higher commission on instant tab games and the overall ability to generate additional revenue. Administrative or other compliance costs represent a minimal business cost to the retailer, which is outweighed by commissions earned.

**Consumers and the Public.** There are no costs to the general public associated with the adoption of these rules. The public will potentially benefit from activities charitable organizations are able to support as a result of offering instant tab games.

**State Revenues.** Revenue generated from Lottery game sales are deposited into the Lottery Fund. A percentage of Lottery game revenue is typically returned to the state to fund various beneficiary programs as specified in A.R.S. § 5-522. The Lottery returned \$141.9 million to state beneficiaries in FY10 and hopes to exceed that amount in FY11. However, instant tab tickets offer a higher commission than traditional Lottery products, which impacts proceeds that would otherwise be returned to the state. Generating state profit was not the objective of allowing charitable organizations to sell instant tab tickets. Instead, commissions earned will be utilized by these organizations to fund charitable activities. The state will break even, but will not profit from these games.

**Alternative Methods.** The Lottery believes there are no less intrusive or less costly alternative methods for achieving the purpose of the rulemaking. A statutory mandate has designated the Lottery as the provider of instant tab tickets. In fulfilling this responsibility, the Lottery will use an existing contract to print instant tab tickets, which was the result of a Request for Proposal. The formal procurement process ensures fairness to potential vendors and provides the best value to the Lottery and the state. The Lottery will also fulfill its new statutory mandate with existing staff, saving costs associated with additional personnel. These rules will only affect those organizations that voluntarily request to be included, and commissions earned will cover any costs of compliance.

This rulemaking will not have any identifiable economic impact on political subdivisions of the state, or private and public employment.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

In R19-3-705, the Section title was changed from "Ticket Validation Requirements" to "Ticket Validation and Confirmation Requirements."

In R19-3-705, the provision was removed that required prizes for instant tab tickets to be claimed on the same business day the ticket was purchased.

There are no substantive changes between the final rules and the proposed rules.

**11. A summary of the comments made regarding the rules and the agency response to them:**

No oral or written comments were received from the public regarding the rules.

On September 10, 2010, at a meeting conducted in accordance with the Open Meeting Law, the Lottery Commission, after a call to the public for comments, authorized the Lottery director to adopt the attached rules. The rulemaking record was closed on September 10, 2010 following a period for public comment and an oral proceeding.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**13. Incorporations by reference and their location in the rules:**

None

**14. Were these rules previously made as emergency rules?**

No

**15. The full text of the rules follows:**

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION**

**ARTICLE 7. DESIGN AND OPERATION OF INSTANT GAMES**

Section

- R19-3-701. Definitions
- R19-3-702. Game Profile
- R19-3-705. Ticket Validation and Confirmation Requirements
- R19-3-706. Ticket Ownership and Responsibility; Prize Payment
- R19-3-707. Claim Period
- R19-3-708. Procedure for Claiming Prizes
- R19-3-709. Disputes Concerning a Ticket

**ARTICLE 7. DESIGN AND OPERATION OF INSTANT GAMES**

**R19-3-701. Definitions**

In this Article, unless the context otherwise requires:

1. "Caption" means the printed characters appearing below a play symbol or prize symbol that verify and correspond with that symbol. No more than one caption will appear under a symbol.
2. "Game profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential game fundamentals required by these rules for an instant game.
3. "Instant game" means a game that is played by removing the protective covering from a ticket to reveal the play symbols, or prize symbols, or both that determine if a ticket holder is entitled to a prize or prizes.
4. "Instant scratch game" means an instant game where the protective covering is made of latex or another substance that is scratched off.
5. "Instant tab game" means an instant game where the protective covering is a perforated paper tab that is opened.
- ~~4-6~~ "Pack" means a group of tickets bearing a common identification number.
- ~~5-7~~ "Pack-ticket number" means a unique multi-digit number that includes a game number, a pack number, and a ticket number which distinguishes each ticket from every other ticket within an instant game.
- ~~6-8~~ "PIN" means the designated characters within the validation number that allows an on-line terminal to validate an instant ticket.
- ~~7-9~~ "Play area" means the portion or portions of the ticket which contains the play symbol or symbols. More than one play area may appear on a ticket.
- ~~8-10~~ "Play symbols" means the printed image or images that appear within the defined play area of the ticket that determine if the ticket holder is entitled to a prize or prizes.
- ~~9-11~~ "Prize structure" means the estimated number of prizes, prize values, and odds of winning prizes for an individual game.
- ~~10-12~~ "Prize symbol" means the printed image or images that indicates the prize or prizes available in that game.
- ~~11-13~~ "Retailer validation code" means the multiple letters in the play area, under the protective covering that verify prizes less than \$600.
- ~~12-14~~ "Validation number code" means the unique multi-digit multi-positional code on each ticket that is used to validate authenticate winning tickets.

**R19-3-702. Game Profile**

- A. Each game shall have a Game Profile and at a minimum, the Profile shall contain the following information:
  1. Game name;
  2. Game number;
  3. Prize structure;
  4. Game Playstyle;
  5. Play symbols;
  6. Retailer validation codes, if any;
  7. Special features, if any;
  8. Retail sales price;
  9. How to play and win instructions; and
  10. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.
- B. The Commission shall approve the individual Game Profile prior to the game being sold to the public.

**R19-3-705. Ticket Validation and Confirmation Requirements**

- A. Each instant game ticket shall be validated prior to payment of a prize.
- B. To be eligible for a prize, a ticket holder ~~must~~ shall present a ticket meeting all of the following requirements:
  1. The ticket shall not be stolen or appear on any list of omitted tickets on file with the Lottery;
  2. The ticket shall not be counterfeit or forged, in whole or in part;
  3. The ticket shall not be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
  4. The ticket shall not be blank, partially blank, misregistered, defective, or printed or produced in error;

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5. The play and prize symbols shall have the captions that confirm and agree with those applicable to that instant game;
  6. The ticket shall have been issued by the Lottery in an authorized manner;
  7. The ticket shall have been legally obtained;
  8. The ticket shall pass all other confidential validation tests determined by the Director;
  9. The ticket shall be validated in accordance with the provisions of ~~sections~~ R19-3-706 and R19-3-708;
  10. The display printed on the ticket shall correspond precisely with the approved artwork on file at the Lottery;
  - ~~11. The validation number of a winning ticket shall appear in the Lottery's official file of validation numbers of winning tickets and shall not have been paid previously;~~
  - ~~12.11.~~ All of the ticket symbols originally printed on the ticket shall appear in the play area on the ticket and shall correspond to those shown in the Game Profile; and
  - ~~13.12.~~ The play and prize symbols shall have the required captions that confirm and agree with those of the appropriate instant game;
  - ~~14. The ticket shall contain a game number, a pack-ticket number, a retailer validation code, a PIN number and at least one ticket validation number.~~
- C.** In addition to the requirements in subsection (B), each instant scratch game ticket shall meet the following:
1. The ticket shall contain a game number, a pack-ticket number, a retailer validation code, and where applicable, a PIN number, and at least one ticket validation code; and
  2. The validation code of a winning ticket shall appear in the Lottery's official file of validation codes of winning tickets and shall not have been previously paid.
- D.** In addition to the requirements in subsection (B), each instant tab game ticket shall meet the following:
1. The ticket shall contain a game number and a serial number, and
  2. A winning tab ticket shall contain the necessary prize and win symbol captions to enable visual confirmation of a prize.
- ~~E.~~** If the ticket fails to pass any of the requirements in Section R19-3-705(B), subsections (B) and (C) for instant scratch games, or subsections (B) and (D) for instant tab games, the ticket is void and ineligible for any prize payout.

**R19-3-706. Ticket Ownership and Responsibility; Prize Payment**

- A.** Until a ticket is signed, the ticket is owned by its physical possessor.
- B.** ~~The Director shall recognize as the owner of a winning instant ticket~~ is the person whose signature appears upon the ticket in the area, if an area has been designated for that purpose.
1. If more than one signature appears on the ticket, the Director is authorized to require that one or more of those claimants be designated to receive the payment. A claim form shall be submitted by each claimant who is designated to receive a portion of the prize claimed from the winning ticket.
  2. Prior to payment of a prize, a claimant who has signed the ticket may designate another claimant to receive the prize by signing a relinquishment of claim statement.
  3. When the winning ticket was purchased by a group of players, the group shall designate one of the claimants to sign the ticket for the group. Each claimant shall complete an individual claim form to receive the claimant's portion of the prize.
  4. In the event there is an inconsistency in the information submitted on a claim form, when required, and as shown on the winning instant ticket, the Director shall authorize an investigation and withhold all winnings payable to the ticket owner or holder until such time as the Director is satisfied that the proper person is being paid.
- C.** Prior to paying the claimant a prize of \$600 or more, the Lottery shall match the winner's name against the lists of persons owing a debt to a participating state agency, furnished to the Lottery under A.R.S. § 5-525.
1. If there is a match on any of the claims submitted with a ticket, the amount that is owed shall be deducted from the prize due the claimant.
  2. The claimant shall be notified in writing of the amount of the setoff and the agency to which it shall be paid.
  3. If the claimant has two or more agencies which are owed a debt, the Lottery shall pay a pro-rata share to each of the agencies, except that a Department of Economic Security overdue child support setoff shall be paid in full before any amount shall be paid to another agency.
  4. The claimant shall be notified in writing that a right to appeal the setoff exists ~~and must be commenced within 30 days of the receipt of this notification~~. The notification shall include the name and address of the agency with which to file the appeal and that the appeal shall commence within 30 days of receipt of the notification.
  5. If, after deducting withholding taxes and the setoff, a portion of the prize remains, then that portion shall be paid to the winner with the notification of setoff.
  6. The ~~amount of setoff~~ amount shall be forwarded to the agency, and that agency shall be responsible for any appeal and crediting of the payment against the amount owed or refunding any amount to the winner.
  7. Upon a determination that a setoff is due, the winner loses the right under subsection (B)(2) to assign any portion of the claim.
- D.** Prizes shall be paid by cash, check, money order, or if requested by the player, by Lottery tickets.
1. If a ticket contains more than one winning game play, any prize amounts shall be combined and paid in accordance

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with the prize payment limits specified in ~~Section~~ R19-3-708.

2. Each winning game play wins the prize amount specified in the Game Profile.

E. The Lottery is not responsible for lost or stolen tickets.

**R19-3-707. Claim Period**

A. ~~In order for~~ For the claimant to receive payment, a winning instant scratch game ticket shall be received by the Lottery or a retailer no later than 5:00 p.m. (Phoenix time) on the 180th calendar day following the announced end of the instant game.

~~B.1.~~ If a claimant presents a valid winning instant scratch ticket to a retailer for payment on the 180th calendar day following the announced end of the instant ~~ticket~~ scratch game and is not paid the prize, the Director is authorized to pay the prize if the claimant presents the valid winning ticket to the Lottery no later than 5:00 p.m. (Phoenix time) on the following business day.

~~C.2.~~ In the case of a drawing prize associated with an instant scratch game, the claimant ~~must~~ shall claim the prize no later than 5:00 p.m. (Phoenix time) on the final day designated by the Director and on file at the Lottery.

~~D.B.~~ The end of an instant game shall be designated by the Director and on file at the Lottery.

**R19-3-708. Procedure for Claiming Prizes**

A. To claim ~~a~~ an instant scratch ticket prize of up to and including \$599, the claimant shall present the ticket to any participating licensed retailer or to a Lottery office, or mail the ticket to a Lottery office for validation. The licensed retailer shall pay ~~a winner a prize~~ all winning prizes up to and including \$100 and may pay ~~a winner a prize~~ all winning prizes from \$101 up to and including \$599 provided that:

1. All of the ticket validation criteria in Section R19-3-705 have been satisfied; and

2. A proper validation slip, which is an authorization to pay, has been ~~issued~~ generated by the terminal.

B. To claim ~~a~~ an instant scratch ticket prize that the retailer does not validate or is not authorized to pay, including all prizes of \$600 or more, the claimant shall submit a claim form, available from any retailer, and the ticket to the Lottery. If the claim is:

1. Verified and validated by the Lottery as a winning ticket, the Lottery shall make payment of the amount due to the claimant, less any authorized debt setoff amounts, or withheld taxes, or both.

2. Denied by the Lottery, the claimant shall be notified within 15 days from the day the claim is received in the Lottery office.

C. If ~~a~~ an instant scratch ticket prize winner dies prior to receiving full payment, the Lottery shall pay all remaining prize money to the prize winner's beneficiary or to any person designated by an appropriate judicial order.

~~D. The Lottery is discharged of all liability upon payment of the prize money. To claim an instant tab ticket prize, the claimant shall present the ticket to the selling retailer. The selling retailer shall pay all winning prizes provided that:~~

~~1. All of the ticket validation criteria in R19-3-705(A) and R19-3-705(B)(1) through (8) have been satisfied; and~~

~~2. The retailer has performed a visual confirmation of the winning play, prize, and win symbol captions.~~

E. Payment of prize money shall not be accelerated ahead of its normal date of payment.

~~F. The Lottery is discharged of all liability upon payment of the instant scratch ticket prize money.~~

~~G. The retailer has sole responsibility to pay prizes on instant tab tickets. The Lottery is discharged of all liability to pay prizes on instant tab tickets.~~

**R19-3-709. Disputes Concerning a Ticket**

A. If a dispute between the Lottery and a claimant occurs concerning a ticket, the Director is authorized to replace the disputed ticket with a ticket or tickets of equivalent sales price from any current instant game.

B. If a defective ticket is purchased, the Lottery shall replace the defective ticket with a ticket or tickets of equivalent sales price from any current instant game.

C. Replacement of the disputed ticket is the sole and exclusive remedy for a claimant.

D. If a dispute between the Lottery and a claimant occurs concerning the eligibility of an entry into a grand prize, second chance or promotional drawing, the Director is authorized to place any person's eligible entry that was not entered in that drawing into any subsequent drawing or drawings.